

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FRANK MARTINEZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

COMPLAINT FOR DAMAGES FOR MEDICAL NEGLIGENCE

COMES NOW Plaintiff, Frank Martinez, through counsel, the Voorhees Law Firm, Scott F. Voorhees, and for cause of action against Defendant, alleges as follows:

1. Frank Martinez is a resident of Rio Arriba County, state of New Mexico and has been at all times relevant hereto.
2. Frank Martinez brings this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346 (B), and 2671-2680. Frank Martinez submitted the appropriate Form 95 on September 26, 2014. His claim was formally denied on March 23, 2015.
3. Frank Martinez received treatment at the Veterans Administration Hospital in Albuquerque New Mexico on October 26, 2012. Mr. Martinez sustained serious injuries as a result of that treatment.
4. Jurisdiction and venue are proper in this court.
5. On October 26, 2012 Frank Martinez underwent surgery for carpal tunnel release on his right hand at the Veterans Administration Hospital in Albuquerque New Mexico. The surgery was performed by Michael John Hopson, a resident in the Department of orthopedic surgery. He was supervised by Dr. Paul Lesko.

6. This surgical report confirms that a complication of the surgery was a laceration of the median nerve of Mr. Martinez's right hand.
7. As a result of the injury Mr. Martinez has experienced pain and numbness and loss of use of his right hand.

COUNT I  
Negligence of Dr. Hopson

8. Plaintiff incorporates paragraphs 1 through 7 of this Complaint as though fully set forth herein.
9. Dr. Hopson had the duty to possess and apply the knowledge and use the skill and care ordinarily used by reasonably well qualified physicians when performing surgery on Frank Martinez.
10. Dr. Hopson failed to possess and apply the knowledge and use the skill and care ordinarily used by reasonably well qualified physicians in that he failed to properly identify and avoid cutting or causing damage to Mr. Martinez's median nerve.
11. As a direct and proximate result of Dr. Hopson's negligence Frank Martinez has suffered and continues to suffer loss of use, weakness, pain and numbness in his right hand.

COUNT II  
Negligence of Dr. Lesko

12. Plaintiff incorporates paragraphs 1 through 11 of this Complaint as though fully set forth herein.
13. Dr. Lesko had the duty to possess and apply the knowledge and use the skill and care ordinarily used by reasonably well qualified physicians when treating or overseeing the treatment of Frank Martinez.

14. Dr. Lesko failed to possess and apply the knowledge and use the skill and care ordinarily used by reasonably well qualified physicians in that he failed to properly supervise surgical resident Dr. Hopson while Dr. Hopson was performing surgery on Mr. Martinez's wrist.
15. As a direct and proximate result of Dr. Lesko's negligence Frank Martinez has suffered and continues to suffer loss of use, weakness, pain and numbness in his right hand.

COUNT III  
Respondeat Superior

16. Plaintiff incorporates paragraphs 1 through 15 of this Complaint as though fully set forth herein
17. Dr. Hopson and Dr. Laske were acting within the course and scope of their employment with the Veterans Administration Hospital at the time of the incident complained of herein.
18. The Veterans Administration Hospital, and thereby the United States, is liable to Plaintiff on the basis of respondeat superior.

WHEREFORE, Plaintiff prays for judgment to be entered against defendant as follows:

- A. For medical expenses, past and future, in an amount to be determined at trial;
- B. For pain and suffering, past and future, in an amount to be determined at trial;
- C. For loss of enjoyment of life, past and future, in an amount to be determined at trial;
- D. For loss of household services, past and future, in an amount to be determined at trial;
- E. For prejudgment and post judgment interest;

F. For costs incurred here in; and For such other and further relief as the court deems just.

Voorhees Law Firm, P.C.

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